

telcos will be limited to entities that serve sparsely populated areas.<sup>6</sup> Thus, a consortium of rural telephone companies is still rural in nature. By combining areas of low population density, the population does not become more dense. While the combined revenues and access lines of these carriers increase when a consortium is formed, so do the cumulative costs of providing service faced by these companies. In short, the forming of a consortium by rural telcos does not change their rural nature; nor does it change the need for these carriers to have assistance, in order to ensure that they can bring the benefits of emerging technologies to their rural communities.

Moreover, rural telcos constitute a natural consortium that will be more likely to bring new services to less populated areas of the country. They share the same public service commitment to serve these areas, and face the same costs, terrain, weather, and other obstacles. Indeed, SDN is a consortium of rural telephone companies which has been successful in bringing enhanced services such as competitive equal access, SS7, and enhanced medical,

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<sup>6</sup>Under the current definition of rural telephone company, the carrier must not only be small (less than 50,000 access lines), but must also serve an area with a low population density (no community with greater than 10,000 inhabitants). SDN would have the Commission revise this definition, so that small telephone companies serving slightly more than 10,000 inhabitants could still qualify as a rural telco. This will not change the fact that all such carriers will serve sparsely populated areas. The Commission can take official notice that the independent telephone industry sprung out of those areas where the Bell companies did not see fit to serve, because of their sparse population and other undesirable factors. Thus, the Commission can take official notice that telephone carriers with 50,000 access lines or fewer are not serving densely populated, highly profitable urban areas.

police, fire and educational services to rural South Dakota. As the Commission has recognized, these benefits would not have been possible if the individual members of SDN were forced to go it alone. The Commission will be ignoring the practical lessons of experience if it prevents consortia like SDN from obtaining PCS licenses under the rural telco designated entity preferences.

Even if rural telcos are allowed to combine their efforts, it may still be necessary for them to seek investors, in light of the capital intensive nature of PCS. The Commission should allow a group of rural telcos to form a consortium with such investors, so long as the eligible rural telephone company members maintain at least 50.1% equity ownership and control. This is the same standard which the Commission has adopted for minority and women participation in PCS, and this same principle should apply to rural telephone companies.

## **VI. CONCLUSION**

The Commission's newly adopted auction rules fail to ensure that rural telephone companies will have any meaningful opportunity to acquire auctionable spectrum -- particularly PCS spectrum. This result is not in the public interest, nor it is consistent with Congressional mandate that these companies be enfranchised in the process. SDN and its members strongly desire to provide PCS and other sophisticated services in rural South Dakota and have a proven track record of providing sophisticated services in these high cost, low population density rural areas.

In order to ensure that the promise of PCS is realized in

rural areas, the Commission should revise its auction order in several respects. First, if the Commission does not otherwise expand the definition of rural telephone company, it should revise the definition of "rural telephone company" by utilizing the alternative previously proposed by the small telephone company industry, which defines rural telephone companies as those service 50,000 or fewer access lines or communities with 10,000 or fewer in population. It should also delete the phrase "independently owned and operated" from the rural telephone company definition. These changes will help to enfranchise rural telephone companies who are truly small, and will eliminate uncertainty created by the current rules. Second, the Commission should extend meaningful bid credits to rural telephone companies by eliminating onerous build-out requirements, and by extending additional, significant bid credits to these companies. Third, the Commission should extend installment payment benefits to rural telcos, instead of only limiting those benefits to rural telcos who also qualify as a "small business." Fourth, the Commission should ensure a PCS set-aside for designated entities. Without this important step, the other measures to enfranchise designated entities may not be enough to allow these entities to attract the intensive capital resources that PCS will require. Fifth, the Commission must allow the formation of consortia among designated entities and sources of capital. The Commission's consortium rules appear to single out rural telcos by prohibiting them from forming consortia or joint ventures in order to raise the capital that will be necessary for

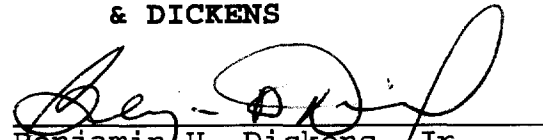
buying PCS spectrum and related system construction. The Commission is respectfully requested to recognize the benefits of consortia in rural areas, through networks like SDN, and to specifically allow consortia among rural telcos, or between rural telcos and equity investors where rural telco members maintain at least 50.1% equity ownership and control.

The Commission is respectfully requested to reconsider its Order, along the lines requested here, in an expeditious manner. Rural telcos and their networks like SDN, are anxious to begin planning to provide PCS and other services to the public, and the changes requested here will speed that result.

Respectfully submitted,

**BLOOSTON, MORDKOFKY, JACKSON  
& DICKENS**

By:

  
Benjamin H. Dickens, Jr.  
John A. Prendergast

Blooston, Mordkofsky, Jackson  
& Dickens  
Suite 300  
2120 L Street, NW  
Washington, DC 20037  
(202) 659-0830

Filed: June 3, 1994

**CERTIFICATE OF SERVICE**

I, Connie H. Boyer, hereby certify that I am an employee in the Law Offices of Blooston, Mordkofsky, Jackson & Dickens and that on this 3rd day of June, 1994, I caused to be mailed a copy of the foregoing **"PETITION FOR PARTIAL RECONSIDERATION"** to the following:

Chairman Reed Hundt  
Federal Communications Commission  
1919 M Street, NW Room 814 Mail Stop 0101  
Washington, DC 20554

Commissioner James H. Quello  
Federal Communications Commission  
1919 M Street, NW Room 802 Mail Stop 0106  
Washington, DC 20554

Commissioner Andrew C. Barrett  
Federal Communications Commission  
1919 M Street, NW Room 826 Mail Stop 0103  
Washington, DC 20554

Commissioner Susan Ness  
Federal Communications Commission  
1919 M Street, NW Room 832  
Washington, DC 20554

Commissioner Rachelle Chong  
Federal Communications Commission  
1919 M Street, NW Room 844  
Washington, DC 20554

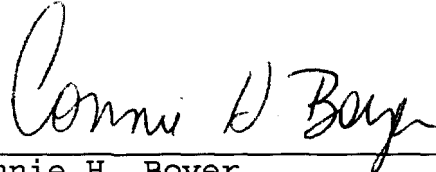
Ralph Haller, Chief  
Private Radio Bureau  
Federal Communications Commission  
2025 M Street, NW  
Room 5002 Mail Stop 1700  
Washington, DC 20554

Robert M. Pepper, Chief  
Office of Plans and Policy  
Federal Communications Commission  
1919 M Street, NW Room 822 Mail Stop 1000  
Washington, DC 20554

Donald H. Gips, Deputy Chief  
Office of Plans and Policy  
Federal Communications Commission  
1919 M Street, NW Room 822 Mail Stop 1000  
Washington, DC 20554

Gerald P. Vaughan, Deputy Bureau Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, Room 500 Mail Stop 1600  
Washington, DC 20554

William E. Kennard, General Counsel  
Federal Communications Commission  
1919 M Street, NW Room 614 Mail Stop 1400  
Washington, DC 20554

A handwritten signature in cursive script, reading "Connie H. Boyer". The signature is written in dark ink and is positioned above a horizontal line.

Connie H. Boyer